8/5/14 – pdf emailed to Patricia Duron; cc: Robert Martinez, Todd Galiga and Caroline Sweeney. 41705 OLS

AQUA

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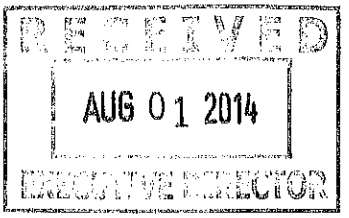
Original mailing to Patricia Duron

July 30, 2014



Mr. Richard Hyde, P.E.
Executive Director (MC 109)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Petitions for Adoption of Amendments to Rules; 30 Texas Administrative Code, Chapter 290, Public Drinking Water Rules

Dear Mr. Hyde:

Pursuant to 30 TAC §20.15, Aqua Texas respectfully submits the following petitions (attached) for adoption of changes to the Chapter 290, Public Drinking Water Rules:

> Petition for changes to 30 TAC §290.46 Minimum Acceptable Operating Practices for Public Drinking Water Systems, (f) Operating records and reports; and associated relative sections of 30 TAC §290.110 Disinfectant Residuals, (c) Monitoring requirements;
>
> Petition for changes to 30 TAC §290.45 Minimum Water System Capacity Requirements, (f) Purchased water systems;
>
> Petition for changes to 30 TAC 290.44 Water Distribution, (c) Minimum waterline sizes

Aqua has attempted, unsuccessfully, to work with staff for a number of years to open the rules to consider some of these needed changes to update rules, most of which have remained unchanged since the drinking water program was transferred to TCEQ from the Health Department in the late 1980's. As you will see in the specific petitions, some of the rules are truly outdated and do not provide water service providers the opportunity to operate with 21st century technology which leads to unnecessary costs for water customers.

Because most of the staff who understood the history and purpose of these rules as they were originally drafted have now left the agency, Aqua frequently encounters regional staff who create "unique" interpretations of the rules which make little sense, do nothing to further public health protection which is the primary purpose of the rules, but do unnecessarily increase the cost of supplying water to customers.

Staff is currently preparing rule changes for making use of brackish water supplies which will require opening many of the sections of the rules that Aqua is proposing to update which makes this an opportune time to consider bringing these rules into the 21st century.

If you or your staff have any questions regarding this petition, please contact Scot Foltz at 512-844-6475.

Sincerely,

Robert Laughman
President
Aqua Texas, Inc.

Scot Foltz
Environmental Compliance Manager
Aqua Texas, Inc.

PETITION FOR RULEMAKING
30 T.A.C. §290.46 Minimum Acceptable Operating Practices for Public Drinking Water Systems
(f) Operating records and reports.

Pursuant to the Texas Government Code §2001.021 and 30 TAC §20.15, Aqua Texas respectfully submits the following petition to the Texas Commission on Environmental Quality for adoption of amendments to the Chapter 290, Public Drinking Water Rules, specifically 30 T.A.C. §290.46 Minimum Acceptable Operating Practices for Public Drinking Water Systems (f) Operating records and reports.

I. Name and Address of the Petitioner:
Aqua Texas, Inc.
1106 Clayton Lane, Suite 400W
Austin, Texas 78723

II. Explanation for Petition: The existing rule provides a list of minimum operating parameters that must be recorded by a public water system at various intervals depending on the size of the pws. The rule contemplates that all of these parameters will be monitored by an operator physically visiting the water plant site at the required interval. While that may have been prudent when the rule was originally drafted, with current technology it unnecessarily increases the cost of providing safe, reliable water service without any actual benefit to customers. With current technology, there are a number of remote monitoring techniques including electronic and video systems that not only would allow a pws to obtain this information as needed and with the same reliability, but would actually allow even greater monitoring than the current rule which relies on a physical visit to each plant site for a brief time by the operator. Aqua's rule change request seeks to modify the rule to allow the use of other methods for obtaining this information apart from a physical visit by the operator for each required interval.

Currently, to obtain the authority to use one or more of these technologies, Aqua would be required to request an exception for each of the over 300 pws it operates with no guarantee that the request would be acted upon favorably since the rule does not clearly contemplate remote monitoring to obtain the operating data.

III. Proposed Rule Language - 30 T.A.C. §290.46 Minimum Acceptable Operating Practices for Public Drinking Water Systems

(f) Operating records and reports. Water systems must maintain a record of water works operation and maintenance activities and submit periodic operating reports. The executive director may allow public water systems that serve 250 or more connections to use data obtained from electronic, video or other remote monitoring equipment to satisfy some of these requirements in lieu of on-site visits by operators if public health will not be endangered. Systems that serve 250 or more connections using electronic or remote monitoring must perform at least two on-site visits each week that are at least three days apart.

(1) The public water system's operating records must be organized, and copies must be kept on file or stored electronically.

(2) The public water system's operating records must be accessible for review during inspections and be available to the executive director upon request.

(3) All public water systems shall maintain a record of operations.

(A) The following records shall be retained for at least two years:

(i) the amount of chemicals used:

(I) Systems that treat surface water or groundwater under the direct influence of surface water shall maintain a record of the amount of each chemical used each day.

(II) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of each chemical used each day.

(III) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchased treated water shall maintain a record of the amount of each chemical used each week;

(ii) the volume of water treated:

(I) Systems that treat surface water or groundwater under the direct influence of surface water shall maintain a record of the amount of water treated each day.

(II) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of water treated each day.

(III) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchase treated water shall maintain a record of the amount of water treated each week;

(iii) the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation;

(iv) the dates that dead-end mains were flushed;

(v) the dates that storage tanks and other facilities were cleaned;

(vi) the maintenance records for water system equipment and facilities; and

(vii) for systems that do not employ full-time operators to meet the requirements of subsection (e) of this section, a daily record or a monthly summary of the work performed and the number of hours worked by each of the part-time operators used to meet the requirements of subsection (e) of this section.

(B) The following records shall be retained for at least three years:

(i) copies of notices of violation and any resulting corrective actions. The records of the actions taken to correct violations of primary drinking water regulations must be retained for at least three years after the last action taken with respect to the particular violation involved;

(ii) copies of any public notice issued by the water system;

(iii) the disinfectant residual monitoring results from the distribution system;

(iv) the calibration records for laboratory equipment, flow meters, rate-of-flow controllers, on-line turbidimeters, and on-line disinfectant residual analyzers;

(v) the records of backflow prevention device programs;

(vi) the raw surface water monitoring results and source water monitoring plans required by §290.111 of this title (relating to Surface Water Treatment) must be retained for three years after bin classification required by §290.111 of this title;

(vii) notification to the executive director that a system will provide 5.5-log *Cryptosporidium* treatment in lieu of raw surface water monitoring; and

(viii) except for those specified in subparagraphs (C)(iv) and (E)(i) of this paragraph, the results of all surface water treatment monitoring that are used to demonstrate log inactivation or removal.

(C) The following records shall be retained for a period of five years after they are no longer in effect:

(i) the records concerning a variance or exemption granted to the system;

(ii) Concentration Time (CT) studies for surface water treatment plants;

(iii) the Recycling Practices Report form and other records pertaining to site-specific recycle practices for treatment plants that recycle; and

(iv) the turbidity monitoring results and exception reports for individual filters as required by §290.111 of this title.

(D) The following records shall be retained for at least five years:

(i) the results of microbiological analyses;

(ii) the results of inspections (as required in subsection (m)(1) of this section) for all water storage and pressure maintenance facilities;

(iii) the results of inspections as required by subsection (m)(2) of this section for all pressure filters;

(iv) documentation of compliance with state approved corrective action plan and schedules required to be completed by groundwater systems that must take corrective actions;

(v) documentation of the reason for an invalidated fecal indicator source sample and documentation of a total coliform-positive sample collected at a location with conditions that could cause such positive samples in a distribution system;

(vi) notification to wholesale system(s) of a distribution coliform positive sample for consecutive systems using groundwater;

(vii) Consumer Confidence Report compliance documentation;

(viii) records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the executive director-approved minimum specified disinfectant residual for a period of more than four hours for groundwater systems providing 4-log treatment; and

(ix) records of executive director-specified compliance requirements for membrane filtration, records of parameters specified by the executive director for approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours for groundwater systems. Membrane filtration can only be used if it is approved by the executive director and if it can be properly validated.

(E) The following records shall be retained for at least ten years:

(i) copies of Monthly Operating Reports and any supporting documentation including turbidity monitoring results of the combined filter effluent;

(ii) the results of chemical analyses;

(iii) any written reports, summaries, or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by the executive director shall be kept for a period not less than ten years after completion of the survey involved;

(iv) copies of the Customer Service Inspection reports required by subsection (j) of this section;

(v) copy of any Initial Distribution System Evaluation (IDSE) plan, report, approval letters, and other compliance documentation required by §290.115 of this title (relating to Stage 2 Disinfection Byproducts (TTHM and HAA5));

(vi) state notification of any modifications to an IDSE report;

(vii) copy of any 40/30 certification required by §290.115 of this title;

(viii) documentation of corrective actions taken by groundwater systems in accordance with §290.116 of this title (relating to Groundwater Corrective Actions and Treatment Techniques);

(ix) any monitoring plans required by §290.121(b) of this title (relating to Monitoring Plans); and

(x) records of the executive director-approved minimum specified disinfectant residual for groundwater systems providing 4-log treatment, including wholesale, consecutive, and mixed systems, regulated under §290.116(c) of this title.

(F) A public water system shall maintain records relating to lead and copper requirements under §290.117 of this title (relating to Regulation of Lead and Copper) for no less than 12 years. Any system subject to the requirements of §290.117 of this title shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, executive determinations, and any other information required by the executive director under §290.117 of this title. These records include, but are not limited to, the following items: tap water monitoring results including the location of each site and date of collection; certification of the volume and validity of first-draw-tap sample criteria via a copy of the laboratory analysis request form; where residents collected the sample; certification that the water system informed the resident of proper sampling procedures; the analytical results for lead and copper concentrations at each tap sample site; and designation of any substitute site not used in previous monitoring periods.

(G) A public water system shall maintain records relating to special studies and pilot projects, special monitoring, and other system-specific matters as directed by the executive director.

(4) Water systems shall submit routine reports and any additional documentation that the executive director may require to determine compliance with the requirements of this chapter.

(A) The reports must be submitted to the Texas Commission on Environmental Quality, Water Supply Division, MC 155, P.O. Box 13087, Austin, Texas 78711-3087 by the tenth day of the month following the end of the reporting period.

(B) The reports must contain all the information required by the drinking water standards and the results of any special monitoring tests which have been required.

(C) The reports must be completed in ink, typed, or computer-printed and must be signed by the licensed water works operator.

(5) All public water systems that are affected utilities must maintain the following records for as long as they are applicable to the system:

(A) An emergency preparedness plan approved by the executive director and a copy of the approval letter.

(B) All required operating and maintenance records for auxiliary power equipment, including periodic testing of the auxiliary power equipment under load and any associated automatic switch over equipment.

(C) Copies of the manufacturer's specifications for all generators that are part of the approved emergency preparedness plan.

IV. Statutory Authority: The TCEQ has the authority to adopt the proposed amendments under the Texas Water Code § 5.103.

V. Injury or Inequity Resulting From Failure to Adopt the Proposed Amendments
As discussed under Item II, Explanation for Petition:

> The existing rule does not allow or even contemplate the use of modern remote monitoring technology to obtain and record the minimum operating parameters specified in this rule that unnecessarily increases the cost of providing potable water service;

The rule prevents the use of modern remote monitoring which frequently is more effective;

The rule does not provide necessary flexibility to the executive director to develop guidelines and implement the use of modern technology that could provide lower cost and more reliable water service to customers.

VI. Alternative Language:

The language proposed by the Aqua above may not be the only way to accomplish this purpose. Aqua would not object to alternative or modified language if preferable to TCEQ staff as long as it accomplishes the desired purpose.

In light of these arguments, Aqua respectfully requests that the TCEQ adopt these proposed revisions and additions to the rules to address these important issues.

Respectfully submitted by,

Scot Foltz
Environmental Compliance Manager
Aqua Texas, Inc.
512.844.6475

PETITION FOR RULEMAKING
30 T.A.C. §290.110 Disinfectant Residuals, (c) Monitoring requirements.

Pursuant to the Texas Government Code §2001.021 and 30 TAC §20.15, Aqua Texas respectfully submits the following petition to the Texas Commission on Environmental Quality for adoption of amendments to the Chapter 290, Public Drinking Water Rules, specifically 30 T.A.C. §290.110 Disinfectant Residuals, (c) Monitoring requirements.

I. Name and Address of the Petitioner:
Aqua Texas, Inc.
1106 Clayton Lane, Suite 400W
Austin, Texas 78723

II. Explanation for Petition: The existing rule provides the requirements for the frequency of required disinfection residual monitoring in the distribution system of a public water system based on system size and other factors. Aqua's proposed rule change request addresses two issues related to the frequency of disinfection residual monitoring. One is a clarification/correction for systems required to monitor disinfection residual levels once each week. The rule as written in §290.110(c) is not consistent with §290.46(f) and in some ways negates it. Section §290.46(f) requires a pws with fewer than 250 connections to obtain operating information on a weekly basis, which would presumably include disinfection residual monitoring. However, §290.110(c) requires that disinfection residual testing be done once "every 7 days." A pws could visit on a Monday one week and a Wednesday the next week and meet the requirements of §290.46(f). But to meet the requirements of §290.110(c) as currently written, if the pws operator visited the system on a Monday, he would have to visit every Monday thereafter to meet the 7 day requirement which does not work in the real world!

The other is a rule change which would facilitate the use of remote monitoring of water system operating parameters as requested in Aqua's rule change petition for changes to §290.46 Minimum Acceptable Operating Practices for Public Drinking Water Systems (f) Operating records and reports.

III. Proposed Rule Language - 30 T.A.C. §290.110 Disinfectant Residuals, (c) Monitoring requirements.

(c) Monitoring requirements. Public water systems shall monitor the performance of the disinfection facilities to ensure that appropriate disinfectant levels are maintained. All monitoring conducted pursuant to the requirements of this section must be conducted at sites designated in the public water system's monitoring plan.

(1) Public water systems that treat surface water or groundwater under the direct influence of surface water must verify that they meet the disinfection requirements of subsection (b)(2) of this section.

(A) Public water systems that treat surface water or groundwater under the direct influence of surface water and sell treated water on a wholesale basis or serve more than 3,300 people must continuously monitor and record the disinfectant residual of the water entering the distribution system. If there is a failure in the continuous monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment.

(B) Public water systems that treat surface water or groundwater under the direct influence of surface water, serve 3,300 or fewer people and do not sell treated water on a wholesale basis must monitor and record the disinfectant residual of the water entering the distribution system with either continuous monitors or grab samples.

(i) If a system uses grab samples, the samples must be collected on an ongoing basis at the frequency prescribed in the following table.

Attached Graphic

(ii) The grab samples cannot be taken at the same time and the sampling interval is subject to the executive director's review and approval.

(iii) Treatment plants that use grab samples and fail to detect an appropriate disinfectant residual must repeat the test at four-hour or shorter intervals until compliance has been reestablished.

(2) Public water systems that treat groundwater or that purchase and resell treated water must, upon the request of the executive director, verify that they meet the disinfection requirements of subsection (b)(2) of this section.

(3) Each treatment plant using chlorine dioxide must monitor and record the chlorine dioxide residual of the water entering the distribution system at least once each day. If the chlorine dioxide residual in the water entering the distribution system exceeds the MRDL contained in subsection (b)(3) of this section, the treatment plant must conduct additional tests.

(A) If the public water system does not have additional chlorination facilities in the distribution system, it must conduct three additional tests at the service connection nearest the treatment plant where an elevated chlorine dioxide residual was detected. The first additional test must be conducted within two hours after detecting an elevated chlorine dioxide residual at the entry point to the distribution system. The two subsequent tests must be conducted at six-hour to eight-hour intervals thereafter.

(B) If the public water system has additional chlorination facilities in the distribution system, it must conduct an additional test at the service connection nearest the treatment plant where an elevated chlorine dioxide residual was detected, an additional test at the first service connection after the point where the water is rechlorinated, and an additional test at a location in the far reaches of the distribution system. The additional test at the location nearest the treatment plant must be conducted within two hours after detecting an elevated chlorine dioxide residual at the entry point to the distribution system. The two other tests must be conducted at six-hour to eight-hour intervals thereafter.

(4) Public water systems shall monitor the disinfectant residual at various locations throughout the distribution system.

(A) Public water systems that use groundwater or purchased water sources only and serve fewer than 250 connections and fewer than 750 people daily, must monitor the disinfectant

residual at representative locations in the distribution system at least weekly but no less frequently than once every nine [~~seven~~]days.

(B) Public water systems that serve at least 250 connections or at least 750 people daily, and use only groundwater or purchased water sources must monitor the disinfectant residual at representative locations in the distribution system at least once per day unless authorized to monitor less frequently as part of approved remote monitoring under section 290.46(f) in which case the monitoring frequency shall be specified in the remote monitoring authorization. [~~once per day~~].

(C) Public water systems using surface water sources or groundwater under the direct influence of surface water must monitor the disinfectant residual tests at least once per day at representative locations in the distribution system.

(D) All public water systems must monitor the residual disinfectant concentration each time that a bacteriological sample is collected, as specified in §290.109 of this title (relating to Microbial Contaminants).

IV. Statutory Authority: The TCEQ has the authority to adopt the proposed amendments under the Texas Water Code § 5.103.

V. Injury or Inequity Resulting From Failure to Adopt the Proposed Amendments
As discussed under Item II, Explanation for Petition:

> The rule is inconsistent with and negates section 290.46 (f) which forces a small pws to visit more than the one time per week permitted in 290.46 (f) which unnecessarily increases the cost of providing water service to customers;
>
> Even if TCEQ does not enforce the rule as written, it leaves a pws vulnerable to legal action by a customer for failing to comply with the rule as written.
>
> If the requested change to §290.110(c)(4)(B) were not made, it prevents the opportunity to gain approval to use remote monitoring equipment under the proposed change to §290.46(f).

VI. Alternative Language:

The language proposed by the Aqua above may not be the only way to accomplish this purpose. Aqua would not object to alternative or modified language if preferable to TCEQ staff as long as it accomplishes the desired purpose.

In light of these arguments, Aqua respectfully requests that the TCEQ adopt these proposed revisions and additions to the rules to address these important issues.

Respectfully submitted by,

Scot Foltz
Environmental Compliance Manager
Aqua Texas, Inc.
512.844.6475

PETITION FOR RULEMAKING
30 T.A.C. §290.45 Minimum Water System Capacity Requirements, (f) Purchased water systems.

Pursuant to the Texas Government Code §2001.021 and 30 TAC §20.15, Aqua Texas respectfully submits the following petition to the Texas Commission on Environmental Quality for adoption of amendments to the Chapter 290, Public Drinking Water Rules, specifically 30 T.A.C. §290.45 Minimum Water System Capacity Requirements, (f) Purchased water systems.

I. Name and Address of the Petitioner:
Aqua Texas, Inc.
1106 Clayton Lane, Suite 400W
Austin, Texas 78723

II. Explanation for Petition: The existing rule is intended to ensure that public water systems that purchase some or all of their treated water supply have a contract to guarantee that they have sufficient water supply to provide continuous and adequate water service. The rule assumes that these contracts are negotiated at arms length between a willing buyer and sellers with relatively equal power to negotiate. Unfortunately, this is not true in actual practice. In many, if not most cases the seller is not obligated to sell treated water to the buyer and the buyer is at a substantial disadvantage in negotiations. Because of the cost of transporting large quantities of water, a public water system seeking to purchase treated water typically has only one potential source from which to purchase. Frequently the purchaser is a nongovernmental entity seeking to purchase water from a City or water district. If a seller is willing to sell some quantity of water to the purchaser, they typically are not willing to put specific obligations in the contract to guarantee a specific daily rate, maximum daily rate, hourly rate or minimum pressure. Many purchasers provide water to customers off the direct pressure of the wholesale provider. The current rule also does not clearly state that the quantity of water used to determine compliance with the 290 rules is the combination of the purchased water and any other water supply available to the public water system such as its own wells.

The requirements on the purchaser if it is unable to negotiate a contract meeting all the requirements of the rule can be very onerous and in some cases impossible to meet. If the purchaser cannot negotiate a contract with the specific language required in the rule, compliance should be determined by evaluating the water supply, storage and pumping capabilities of the seller when the purchaser's demands are included.

Ex. a purchasing public water system operating on direct pressure from the seller should be considered to be in compliance with the 2.0 gpm booster pump requirement if the seller's system meets the 2.0 gpm requirement with all of its customers and any customers in the purchaser's system.

III. Proposed Rule Language - 30 T.A.C. §290.45 Minimum Water System Capacity Requirements.

(f) Purchased water systems. The following requirements apply only to systems which purchase treated water to meet all or part of their production, storage, service pump, or pressure maintenance capacity requirements.

(1) The water purchase contract must be available to the executive director in order that production, storage, service pump, or pressure maintenance capacity may be properly evaluated. For purposes of this section, a contract may be defined as a signed written document of specific terms agreeable to the water purchaser and the water wholesaler, or in its absence, a memorandum or letter of understanding between the water purchaser and the water wholesaler.

(2) The contract shall authorize the purchase of enough water to meet the monthly or annual needs of the purchaser when combined with any production capacity of the purchaser or other available sources of potable water, if any.

(3) The contract shall also establish the maximum rate at which water may be drafted on a daily and hourly basis. In the absence of specific maximum daily or maximum hourly rates in the contract, a uniform purchase rate for the contract period will be used.

(4) The maximum authorized daily purchase rate specified in the contract, or a uniform purchase rate in the absence of a specified daily purchase rate, plus the actual production capacity of the system must be at least 0.6 gpm per connection. If the purchaser cannot negotiate a contract which specifies the maximum authorized daily purchase rate, compliance will be determined based on the capacity of the wholesale provider to provide 0.6 gpm per connection for all of its retail customers plus its direct pressure purchased water customers.

(5) For systems which purchase water under direct pressure, the maximum hourly purchase authorized by the contract plus the actual service pump capacity of the system must be at least 2.0 gpm per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less. If the purchaser cannot negotiate a contract which specifies the maximum hourly purchase rate, compliance will be determined based on the ability of the wholesale provider to provide 2.0 gpm per connection or at least 1,000 gpm with the largest pump out of service for all of its retail customers plus its direct pressure purchased water customers.

(6) The purchaser is responsible for meeting all production requirements. If additional capacity to meet increased demands cannot be attained from the wholesaler through a new or amended contract, additional capacity must be obtained from water purchase contracts with other entities, new wells, or surface water treatment facilities. However, if the water purchase contract prohibits the purchaser from securing water from sources other than the wholesaler, the wholesaler is responsible for meeting all production requirements.

(7) All other minimum capacity requirements specified in this section shall apply.

IV. Statutory Authority: The TCEQ has the authority to adopt the proposed amendments under the Texas Water Code § 5.103.

V. Injury or Inequity Resulting From Failure to Adopt the Proposed Amendments
As discussed under Item II, Explanation for Petition:

Treated water purchasers are at a significant disadvantage when negotiating wholesale contracts and frequently cannot get language in the contract to meet the requirements of the current rule.

It is unreasonable for TCEQ to require purchasers to have provisions in their purchase water contracts that they have no ability to negotiate with the sellers.

Purchasers are subject to fines and penalties to comply with a rule that is frequently beyond their ability to comply with.

Alternate, reasonable approaches to determining compliance with the minimum water system capacity requirements other than such a restrictive approach are available to TCEQ.

VI. Alternative Language:

The language proposed by the Aqua above may not be the only way to accomplish this purpose. Aqua would not object to alternative or modified language if preferable to TCEQ staff as long as it accomplishes the desired purpose.

In light of these arguments, Aqua respectfully requests that the TCEQ adopt these proposed revisions and additions to the rules to address these important issues.

Respectfully submitted by,

Scot Foltz
Environmental Compliance Manager
Aqua Texas, Inc.
512.844.6475

PETITION FOR RULEMAKING
30 T.A.C. §290.44 Water Distribution, (c) Minimum waterline sizes

Pursuant to the Texas Government Code §2001.021 and 30 TAC §20.15, Aqua Texas respectfully submits the following petition to the Texas Commission on Environmental Quality for adoption of amendments to the Chapter 290, Public Drinking Water Rules, specifically 30 T.A.C. §290.44 Water Distribution, (c) Minimum waterline sizes.

I. Name and Address of the Petitioner:
Aqua Texas, Inc.
1106 Clayton Lane, Suite 400W
Austin, Texas 78723

II. Explanation for Petition: The existing rule is intended to ensure that public water systems can provide adequate pressure to all connections under normal operating conditions. The existing rule determines the minimum line size requirement strictly on customer count without regard to the length of the pipe, elevation changes or whether lines are looped. That method does not ensure that customers do in fact have adequate pressure under normal operating conditions nor does it recognize that in certain instances far more customers could be economically served by a particular line size than currently permitted by the rule.

There are hundreds, if not thousands of public water systems throughout Texas that currently have more customers on a particular line size than permitted by the rule. To be sure there are some that cannot provide adequate pressure because of lines that are too small. However, there are many, maybe even most that DO provide adequate pressure to customers even though they do not meet these rule requirements. A large number of these PWS were originally constructed to serve just a few homes and then later gradually added connections until they became active public water systems. Others extended a 2 inch line some distance to serve one or two homes, but then over time additional homes were constructed along these existing lines so that they now exceed the rule requirement.

If TCEQ aggressively enforces this rule as they are beginning to in some instances, it will create enormous costs, in most cases unaffordable costs to retrofit lines, often with no appreciable increase in pressure to customers. The emphasis for existing PWS should be to ensure that they provide adequate pressure under normal operating conditions, not to force unaffordable costs on them to retrofit water lines to meet an arbitrary rule. Under this rule, a rural system can legally serve 10 customers along a 2 mile long 2 inch line, and yet a mobile home park cannot serve 11 connections on a 2 inch line that is only 250 feet long! Water service is already expensive enough without the need to spend thousands of dollars to meet a rule that does not even ensure the service it is intended to address.

There may be a place for guidelines for sizing lines in new construction, but older water systems currently providing adequate pressure should not be forced to spend unnecessary funds to retrofit water lines to meet this rule. The emphasis should be on providing continuous and adequate service which can be determined better by the actual line pressure under normal conditions than an arbitrary length of pipe and customer count.

III. Proposed Rule Language - 30 T.A.C. §290.44 Water Distribution, (c) Minimum waterline sizes. The minimum waterline sizes are for domestic flows only and do not consider fire flows. Larger pipe sizes shall be used when the licensed professional engineer deems it necessary. (~~It should be noted that~~

~~the required sizes are based strictly on the number of customers to be served and not on the distances between connections or differences in elevation or the type of pipe.~~) No new waterline under two inches in diameter will be allowed to be installed in a public water system distribution system. These minimum line sizes do not apply to individual customer service lines.

(1) New Construction or significant replacement - The required sizes for new water systems are based strictly on the number of customers to be served and not on the distances between connections or differences in elevation or the type of pipe.

Attached Graphic

Figure: 30 TAC §290.44(c)

Maximum Number of Connections	Minimum Line Size (inches)
10	2
25	2.5
50	3
100	4
150	5
250	6
>250	8 and larger

(2) Existing Public Water Systems – Water lines in existing public water systems must comply with the requirements above unless the water system meets the following requirements:

(A) The water lines were installed prior to September 1, 2009,

(B) the water system is able to provide a minimum pressure of 35 psi at all points within the distribution network under normal operating conditions;

(C) if the system is intended to provide fire fighting capability, it must also be able to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions.

IV. Statutory Authority: The TCEQ has the authority to adopt the proposed amendments under the Texas Water Code § 5.103.

V. Injury or Inequity Resulting From Failure to Adopt the Proposed Amendments
As discussed under Item II, Explanation for Petition:

As TCEQ inspectors enforce the current rule it will force hundreds, perhaps thousands of public water systems to expend many thousands of dollars to retrofit water lines that do not meet this rule requirement. Many of these expenditures will result in no appreciable improvement in water service for customers but will substantially increase an already high cost of providing water service.

Looping existing lines, which may be the most beneficial thing a water system can do to ensure adequate pressure and supply, will not qualify to satisfy this rule.

The method for sizing lines specified in this rule does not ensure that customers have adequate pressure under normal operating conditions nor does it recognize that in certain instances far more customers could be economically served by a particular line size than currently permitted

by the rule.

VI. Alternative Language:

The language proposed by the Aqua above may not be the only way to accomplish this purpose. The "grandfather date" of 2009, which Aqua proposes in the rule, recognizes that in recent years there has been more awareness of the benefit of oversizing lines so that newer systems are not as likely to have undersized lines. At the same time, going back 5 years with the grandfather provision will not reward a recently installed public water system for choosing not to install properly sized lines perhaps to save some upfront costs. Aqua would not object to alternative or modified language if preferable to TCEQ staff as long as it accomplishes the desired purpose.

In light of these arguments, Aqua respectfully requests that the TCEQ adopt these proposed revisions and additions to the rules to address these important issues.

Respectfully submitted by,

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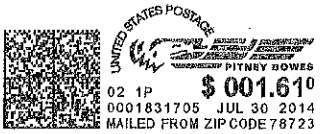

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